

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Jennifer L. Hartzell, D.H.
License No. H4121

**STIPULATION AND ORDER FOR
CONDITIONAL LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate dental hygienists, to refer complaints against dental hygienists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received a complaint(s) against Jennifer L. Hartzell, D.H. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and based upon the information held a conference with Licensee on December 13, 2007. The Committee and Licensee have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction. Licensee holds a license to practice dental hygiene in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation. Licensee states that she does not hold a license to practice dental hygiene in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This stipulation is based upon the following facts:

Unprofessional Conduct and/or Inability to Practice with Reasonable Skill and Safety

1. Licensee has engaged in personal conduct which brings discredit to the profession of dental hygiene and may be unable to practice dental hygiene with reasonable skill and safety due to a physical, mental, emotional, or other disability.

a. On November 30, 2005, Licensee self-reported to Health Professionals Services Program ("HPSP") at the request of her employer who confronted her about reports of smelling alcohol on her breath. During her intake interview, Licensee told HPSP that she denies having a drinking problem. As for her breath, Licensee saw her primary care physician, David L. Von Weiss, M.D. ("Von Weiss"), who determined that Licensee's bad breath is caused by improper treatment of her acid reflux and allergies. Despite this, HPSP recommended that Licensee complete a chemical dependency ("CD") evaluation.

b. On January 20, 2006, Licensee was discharged from HPSP due to non-cooperation since she failed to obtain a CD evaluation. Upon review, the Committee sent a confidential referral letter to Licensee requesting that she contact HPSP. In April 2006, Licensee contacted HPSP.

c. On May 4, 2006, Licensee had a CD evaluation completed by Patricia Nevins, LADC ("Nevins") at Fairview Recovery Services. Nevins determined that Licensee is alcohol dependent. Moreover, Nevins recommended for Licensee an outpatient chemical dependency treatment program where she can abstain from mood-altering chemicals and learn sober living and coping skills. In response, Licensee stated that she cannot participate in treatment until the soccer season is over for her children.

d. In May 2006, HPSP sent to Licensee a Participation Agreement and Monitoring Plan ("PA") to monitor her substance abuse disorder. In June 2006, Licensee was discharged from HPSP due to non-cooperation with failing to sign and return the PA to

HPSP. Upon review, the Committee sent a confidential referral letter to Licensee requesting that she contact HPSP.

e. On August 1, 2006, Licensee contacted HPSP. During her intake interview, Licensee told HPSP that she spoke with Von Weiss about the results of her May 2006 CD evaluation and he referred her to a therapist, Barbara Hirsch, LICSW, LMFT ("Hirsch").

f. On September 12, 2006, HPSP sent to Licensee a PA to monitor her substance disorder. Upon receipt, Licensee contacted HPSP stating that she has talked at length about her substance issues and decided she does not have a problem. Moreover, Licensee's attorney and her therapist have advised her to obtain a second CD evaluation.

g. On October 5, 2006, Licensee met with Sheila Specker, M.D. ("Specker"), an HPSP medical consultant, to clarify Licensee's substance use. Specker's diagnosis of Licensee's substance use is alcohol abuse bordering on alcohol dependence. Specker recommended for Licensee chemical dependency treatment and individual therapy.

h. On October 6, 2006, Hirsch contacted HPSP about Licensee stating the following: diagnosed Licensee with having adjustment disorder and alcohol abuse; unclear if Licensee crossed the line to dependency; Licensee had one beer in last three weeks which shows some control and ability to stop; and if drinking creates more problems for Licensee then do another CD evaluation.

i. On October 9, 2006, HPSP sent to Licensee an amended PA to monitor her substance disorder. Licensee later contacted HPSP stating that she has a cyst on each ovary. On October 27, 2006, Licensee was discharged from HPSP due to non-cooperation with failing to sign and return the amended PA to HPSP. Licensee told HPSP that her primary focus is her medical condition (possible ovarian cancer) at this time.

j. In December 2006 and January 2007, Licensee submitted two letters to the Committee about her chemical dependency issues, current medical conditions, and employment status. Regarding her chemical dependency, Licensee stated she is seeing a therapist, eliminated any consumption of alcohol, and continues to dispute even having a problem with alcohol. As for her medical condition, Licensee had a successful surgical procedure to remove her ovarian cyst. Furthermore, Licensee is currently employed as a dental hygienist, working 28 hours every week, and would like to maintain her dental hygiene license.

k. On January 11, 2007, Hirsch submitted a letter to the Committee regarding Licensee including the following information: total of four psychotherapy sessions since August 2006; personal issues with marriage and finances; concerns about alcohol use began at work; previously saw primary physician; and some evidence of alcohol abuse which led to a reduction in alcohol use except for holidays.

l. On April 17, 2007, the Committee held an informational conference with Licensee to discuss her foregoing conduct. During the conference, Licensee agreed to participate in a second CD evaluation before the Committee would make a decision regarding this matter.

m. On June 7, 2007, Licensee had a CD evaluation completed by John R. Nelson, MA, LP ("Nelson") at Park Nicollet Clinic. During the evaluation, Licensee made several conflicting statements and admitted that she has been consuming some alcohol over the last three months. Nelson determined that Licensee is alcohol dependent and recommended that she enter a chemical dependency treatment program with an outpatient structure.

n. On June 26, 2007, the Committee sent a confidential referral letter to Licensee requesting that she contact HPSP. On July 24, 2007, Licensee was discharged from HPSP due to her failure to contact HPSP.

o. On December 13, 2007, the Committee held a disciplinary conference with Licensee to discuss her aforementioned conduct. During the conference, Licensee stated that she would return to HPSP for monitoring to maintain her dental hygiene license.

C. Violations. Licensee admits that the facts and conduct specified above constitute violations of Minn. Stat. §§150A.08, subd. 1(6) (unprofessional conduct) and 150A.08, subd. 1(8) (physical, mental, emotional or other disability which adversely affects ability to perform as a licensed dental hygienist), and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order which places CONDITIONS on Licensee's license as a licensed dental hygienist in the State of Minnesota as follows:

CONDITIONS

1. Participation in HPSP.

a. Licensee shall totally abstain from ingesting, injecting, or otherwise taking or using any mood-altering chemical or drug, including, but not limited to alcohol. This prohibition does not apply to legend drugs, including controlled substances, which are prescribed for Licensee by a licensed physician or dentist as part of a course of treatment.

b. Within 14 days of the issuance of this stipulation and order, Licensee shall enroll in HPSP for monitoring of her chemical dependency recovery. Licensee shall provide HPSP with a copy of this stipulation and order at the time of enrollment. Licensee must return the signed Participation Agreement to HPSP within 14 days of receiving the Participation Agreement from HPSP. Failure to meet either of these

deadlines will be considered a violation of this stipulation and order.

c. Licensee shall be monitored by HPSP until HPSP determines Licensee is qualified to practice without conditions.

d. Licensee shall comply with all provisions of her HPSP Participation Agreement, including revisions subsequent to this order. Licensee's failure to comply with her HPSP Participation Agreement shall be considered a violation of this stipulation and order.

2. Other Conditions.

a. Licensee shall comply with the laws or rules of the Board of Dentistry. Licensee agrees that failure to comply with the Board's laws or rules shall be a violation of this stipulation and order.

b. Licensee shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this stipulation and order, including requests for explanations, documents, office inspections, and/or appearances at conferences. Minn. R. 3100.6350 shall be applicable to such requests.

c. In the event Licensee should leave Minnesota to reside or practice outside the state, Licensee shall notify the Board in writing of the new location within five days. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota unless Licensee demonstrates that practice in another state conforms completely with this stipulation and order.

E. Removal of Conditions. Licensee may petition to have the conditions removed from Licensee's license at any regularly scheduled Board meeting after Licensee has complied with all the conditions of her Participation Agreement with HPSP, provided that Licensee's petition is received by the Board at least 30 days prior to the Board meeting. At

the time of Licensee's petition, Licensee shall have the burden of proof proving that Licensee has complied with her Participation Agreement with HPSP and the conditions of this stipulation and order and that the Licensee is qualified to practice without conditions. Licensee's compliance with these conditions shall not create a presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this order.

F. Fine for Violation of Order. If information or a report required by this stipulation and order is not submitted to the Board by the due date, or if Licensee otherwise violates this stipulation and order, the Committee may fine Licensee \$100 per late report or other violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Licensee waives the right to seek review of the imposition of these fines under the Administrative Procedure Act, by writ of certiorari under Minn. Stat. § 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

G. Additional Discipline for Violation of Order. If Licensee violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

1. The Committee shall schedule a hearing before the Board. At least ten days prior to the hearing, the Committee shall mail Licensee a notice of the violation alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is

mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this stipulation and order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Licensee's practice, or suspension or revocation of Licensee's dental hygiene license.

H. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order shall be considered a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein shall limit (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 14, or (2) the Committee's and the Board's right to temporarily suspend Licensee pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Licensee before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

I. Attendance at Conference. Licensee attended a conference with the Committee on December 13, 2007. The following Committee members attended the conference: Linda Boyum, R.D.A.; Joan Sheppard, D.D.S.; and Kristin Heebner, J.D. Assistant Attorney General Manuel J. Cervantes represented the Committee at the conference. Although Licensee was

informed at the conference that she could be represented by legal counsel, Licensee has knowingly and voluntarily waived that opportunity.

J. Waiver of Licensee's Rights. For the purpose of this stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the facts contained in this stipulation and order and to dispute the adequateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Licensee waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

K. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this stipulation or a lesser remedy than specified herein, this stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and the record.


L. Record. This stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this stipulation. Any reports or other material related to this matter which are received after the date the Board approves the stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

M. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. parts 60 and 61), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

N. Entire Agreement. Licensee has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

O. Service and Effective Date. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Licensee. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

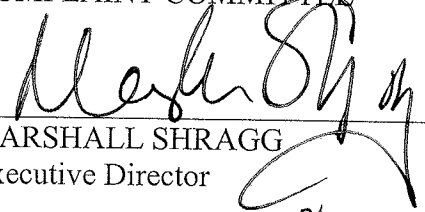
LICENSEE


JENNIFER L. HARTZELL, D.H.

Dated: 2-12-2008, 2008

COMPLAINT COMMITTEE

By:


MARSHALL SHRAGG
Executive Director

Dated: MARCH 17th, 2008

ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records, and proceedings herein,

The terms of the stipulation are approved and adopted; the recommended disciplinary action set forth in the stipulation is hereby issued as an order of this Board placing CONDITIONS on Licensee's license effective this 28th day of March, 2008.

MINNESOTA BOARD
OF DENTISTRY

By: Nadene Bunge
NADENE BUNGE, D.H.
President